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In re Application of DALY et al	:	
U.S. Application No.: 10/564,468	:	
PCT Application No.: PCT/GB2004/003061	:	DECISION
Int. Filing Date: 14 July 2004	:	
Priority Date Claimed: 15 July 2003	:	
Attorney Docket No.: 124593.00101	:	
For: SPRAY APPARATUS	:	

This is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed 22 November 2006, which is being treated as a petition under 37 CFR 1.497(d).

**BACKGROUND**

On 14 July 2004, applicant filed international application PCT/GB2004/003061, which claimed priority of an earlier United Kingdom application filed 15 July 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 27 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 15 January 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 November 2006, applicant filed an executed declaration along with the present petition under 37 CFR 1.497(d).

**DISCUSSION**

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the

international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee will be charged to Deposit Account No. 23-2185 as authorized in the petition.


With regard to item (3) above, the petition fails to state whether an assignment has been executed by any of the original inventors. If such an assignment exists, written consent of the assignee must be provided, and proof of ownership of the assignee must be established. See 37 CFR 3.73(b).

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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